

WYOMING OUTDOOR COUNCIL, ET AL.

IBLA 2000-309

Decided April 15, 2003

Appeal from a decision of the Acting Deputy State Director, Minerals and Lands Authorizations, Wyoming State Office, Bureau of Land Management, dismissing a protest of the April 2000 oil and gas lease sale. WY 3100 (922 Mistarka).

Motion to dismiss denied; decision affirmed in part and reversed and remanded in part.

1. Environmental Policy Act--Environmental Quality:
Environmental Statements--National Environmental
Policy Act of 1969: Environmental Statements--National
Environmental Policy Act of 1969: Finding of No
Significant Impact--Oil and Gas Leases: Competitive
Leases

A BLM decision dismissing a protest challenging the approval of an oil and gas lease sale will be reversed as to the parcels for which the appellants have established standing when the decision to offer the parcels for leasing was based on existing environmental analyses which either did not contain any discussion of the unique potential impacts associated with coalbed methane extraction and development or failed to consider reasonable alternatives relevant to a pre-leasing environmental analysis.

2. Environmental Policy Act--Environmental Quality:
Environmental Statements--National Environmental
Policy Act of 1969: Environmental Statements--National
Environmental Policy Act of 1969: Finding of No
Significant Impact--Oil and Gas Leases: Competitive
Leases

An environmental assessment addressing the impacts of a coalbed methane pilot project proposed for land adjacent to parcels included in an oil and gas lease sale, prepared after BLM issued its decision approving the oil and gas lease sale, does not cure the defects in the environmental documentation relied upon by BLM as support for the leasing decision, when that documentation did not mention coalbed methane extraction and its impacts.

3. Environmental Policy Act--Environmental Quality: Environmental Statements--National Environmental Policy Act of 1969: Environmental Statements--National Environmental Policy Act of 1969: Finding of No Significant Impact--Oil and Gas Leases: Competitive Leases

A BLM decision dismissing a protest of a competitive oil and gas lease sale will be affirmed to the extent the environmental documentation relied upon in the decision considered the impacts of coalbed methane production before deciding that certain lands, including those embraced by the parcel at issue, should be open to oil and gas leasing and development.

APPEARANCES: Thomas F. Darin, Esq., Lander, Wyoming, for appellants; Lyle K. Rising, Esq., Office of the Regional Solicitor, U.S. Department of the Interior, Lakewood, Colorado, for the Bureau of Land Management; Thomas F. Cope, Esq., and Robert Tuchman, Esq., Denver, Colorado, for intervenor, Dudley & Associates, LLC.

OPINION BY DEPUTY CHIEF ADMINISTRATIVE JUDGE HARRIS

Wyoming Outdoor Council, Powder River Basin Resource Council, and Biodiversity Associates have appealed the May 25, 2000, decision of the Acting Deputy State Director, Minerals and Lands Authorizations, Wyoming State Office, Bureau of Land Management (BLM), dismissing their March 30, 2000, protest to the offering of 122 parcels located within Bighorn, Campbell, Carbon, Converse, Johnson, Natrona, Sheridan, Sweetwater, and Uinta Counties, Wyoming, at the April 4, 2000, competitive oil and gas lease sale.

By order dated February 15, 2001, the Board dismissed Biodiversity Associates as an appellant for lack of standing, dismissed the appeal of Wyoming Outdoor Council and Powder River Basin Resource Council (the Councils) as to all but three of

the sale parcels 1/ for lack of standing, and granted the Councils' request for a stay of BLM's decision as to those three parcels, but limited the stay to coalbed methane (CBM) activities only. (Feb. 15, 2001, Order at 4-5.) By order dated June 22, 2001, the Board granted the Councils' motion for partial reconsideration of the February 15, 2001, order, found that the Councils had standing to appeal BLM's decision as to five additional parcels, 2/ and extended the previously granted stay to include those parcels. (June 22, 2001, Order at 2.)

By order dated January 7, 2002, the Board granted the motion to intervene as to parcels WY-0004-072, WY-0004-074, and WY-0004-077, filed by Dudley & Associates, LLC (Dudley) and took under advisement Dudley's separate motion to dismiss the appeal as to those same three parcels. 3/ In that motion, Dudley asked us to reconsider our earlier determination that the Councils had standing to challenge the sale of those parcels. In its motion Dudley asserted that the affidavits submitted by the Councils were inadequate to establish a legally cognizable interest in the parcels that was adversely affected by BLM's leasing decision. Specifically, Dudley argued that the affidavits lacked evidence that the affiant, Barbara Parsons, had legal access to the parcels; omitted any details about her past use of the parcels including the dates of her visits, the duration and frequency of those visits, the purpose of the visits, and her activities during the visits; left out information concerning her planned future use of the parcels; and omitted any allegation that she had used all of the noncontiguous land included within parcel WY-0004-072. (Dudley Motion to Dismiss at 5-8.)

The Councils responded, arguing that the affidavits already in the record sufficiently delineated Parsons' use of the parcels and her intent to use those parcels in the future; that her documented use of one part of parcel WY-0004-072 sufficed to establish standing to challenge the sale of that entire parcel; and that, as attested to

1/ The three parcels are WY-0004-045 (lease WYW 150374), WY-0004-046 (lease WYW 150375), and WY-0004-116 (lease WYW 150431). Parcels WY-0004-45 and WY-0004-46 lie within the jurisdiction of BLM's Buffalo Field Office, while parcel WY-0004-116 embraces lands administered by the Rock Springs Field Office.

2/ The five additional parcels are WY-0004-072 (WYW 150399), WY-0004-074 (WYW 150401), WY-0004-077 (unleased), WY-0004-080 (WYW 150405), and WY 0004-099 (WYW 150414). All of these parcels are under the jurisdiction of the Rawlins Field Office.

3/ Dudley purchased at the lease sale, via its lease broker, parcels WY-0004-072 and WY-0004-074. Although parcel WY-0004-077 was unleased at the sale, Dudley asserts that it has contacted BLM about the availability of that parcel and "intends to explore for and potentially develop CBM resources in all three of these parcels." (Motion to Intervene at 1.)

in Parsons' second supplemental affidavit attached to the response, she had legal access to the parcels. (Appellants' Response to Dudley Motion to Dismiss at 5-7.)

We find that the affidavits in the record, including Parsons' second supplemental affidavit, establish the Councils' standing to challenge BLM's decision as to parcels WY-0004-072, WY-0004-074, and WY-0004-077. We therefore deny Dudley's motion to dismiss the appeal as to those parcels.

Factual Background

In September and October 1999, various interested parties nominated the lands embraced by the subject parcels for inclusion in the next available oil and gas lease sale. In response to those nominations, BLM's Buffalo, Rawlins, and Rock Springs Field Offices prepared "Interim Documentation of Land Use Conformance and NEPA Adequacy" worksheets (DNAs) for the parcels within their respective jurisdictions, assessing whether inclusion of the nominated parcels in the April 2000 oil and gas lease sale conformed to existing land use plans and whether existing documents prepared to comply with the requirements of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. § 4332(2) (2000), were adequate to support those proposals. ^{4/}

In the separate but identical December 1, 1999, DNAs issued for parcels WY-0004-045 and WY-0004-046, the Buffalo Field Office first found that the proposed inclusion of those parcels in the April 2000 lease sale conformed to the

^{4/} The DNAs are five-page forms consisting of specific questions and spaces for the responses. They were designed to allow BLM employees to "assess whether you can rely on existing NEPA documents for a current proposed action and, if so, assist you to record your rationale for your conclusion." Instruction Memorandum (IM) No. 99-149, appended as Ex. 3 to the Councils' Mar. 30, 2000, Protest, at 1. The IM cautions that BLM employees

"should not assume that existing NEPA documents are adequate. Generally, the use of existing NEPA documents is appropriate when: a current proposed action previously was proposed and analyzed (or is part of an earlier proposal that was analyzed); resource conditions and circumstances have not changed; and there is no suggestion by the public of a significant new and appropriate alternative."

"If you determine you can properly rely on existing NEPA documents, you must establish an administrative record that documents clearly that you took a 'hard look' at whether new circumstances, new information, or unanticipated environmental impacts warrant new analysis or supplementation of existing NEPA documents and whether the impact analysis is valid for the proposed action. The documentation can be concise but must adequately address the criteria. * * *"

Id.

October 4, 1985, Buffalo Resource Management Plan (RMP) and Environmental Impact Statement (EIS), which specifically authorized the continued leasing and development of Federal oil and gas in the Buffalo Resource Area, and to the May 4, 1999, Wyodak Draft EIS. The DNAs also identified those documents as the applicable NEPA documents covering the proposed action. (Buffalo Field Office DNA at 1-1.) As to the adequacy of the Buffalo RMP/EIS and the Wyodak Draft EIS for the current proposal, the Buffalo Field Office relied on the Tenth Circuit Court of Appeals decision in Park County Resource Council, Inc. v. U.S. Department of Agriculture (Park County), 817 F.2d 609 (10th Cir. 1987), which, the DNAs stated, held that site-specific NEPA analysis was not possible absent concrete proposals and that the filing of an application for permit to drill (APD) was the first useful point at which a site-specific environmental appraisal should be undertaken. Id. at 1-2. BLM found that sufficient alternatives had been analyzed in the existing NEPA documents, given current environmental concerns, interests, and resource values. Id. at 1-2, 1-3.

In response to the questions addressing whether the impacts of the current proposal were substantially unchanged from those identified in the existing NEPA documents and whether those documents analyzed the proposal's site-specific environmental impacts, the DNAs again cited Park County for the proposition that site-specific analysis was unnecessary prior to the filing of an APD. Id. BLM further determined that the cumulative impacts of the proposed action were substantially unchanged from those analyzed in the Wyodak Draft EIS, although it noted that development greater than the maximum number of wells evaluated in that EIS was "questionable." Id. at 1-4. BLM also considered the numerous public meetings and hearings associated with the existing NEPA documents sufficient to provide ample public involvement for the proposed action. Id. The Buffalo Field Office concluded that the proposed inclusion of the parcels in the April 2000 oil and gas lease sale conformed to the applicable land use plan and that current NEPA documentation fully covered the proposed action and satisfied NEPA's requirements. Id.

In the December 9, 1999, DNAs prepared for parcels WY-0004-072, WY-0004-074, WY-0004-077, WY-0004-080, and WY-0004-099, the Rawlins Field Office found that inclusion of the parcels in the April 2000 lease sale conformed to the November 8, 1990, Great Divide Resource Area RMP which explicitly opened the entire planning area to oil and gas leasing with appropriate restrictions to protect listed resources. (Rawlins Field Office DNA at 1-1.) The Field Office identified the April 1987 Medicine Bow-Divide (Great Divide Resource Area) Draft EIS and the November 1990 Final EIS for the Great Divide Resource Area RMP as the applicable NEPA documents covering the proposed inclusion of the parcels and determined that the proposed action conformed to the analysis in those documents. Id. at 1-2. In other respects, the DNAs were similar to those issued by the Buffalo Field Office. BLM concluded that the proposed inclusion of the parcels in the April 2000 lease sale

conformed to the applicable land use plan and that the NEPA documentation fully covered the proposed action and fulfilled NEPA's requirements. Id.

The Rock Springs Field Office issued its DNA for parcel WY-0004-116 on December 8, 1999. The DNA found that the proposed action, which it described as adding “stipulations to the April 2000 preliminary oil and gas lease sale list” (Rock Springs Field Office DNA at 1), conformed to the August 7, 1997, Green River RMP because it was specifically provided for in that plan and identified the Green River RMP and Final EIS as the applicable NEPA documents. Id. In other aspects, the DNA made similar findings to those in the Buffalo and Rawlins DNAs. BLM concluded that the proposed action conformed to the applicable RMP and that the existing NEPA documentation completely covered the planned activity and satisfied NEPA's mandates. Id. at 4.

In a protest dated March 30, 2000, the Councils, along with Biodiversity Associates and Conservancy of the Phoenix, challenged BLM's offering of 122 parcels, including the 8 parcels at issue in this appeal, at the April 4, 2000, competitive oil and gas lease sale. The protestants argued, inter alia, that BLM had violated NEPA by offering the parcels for lease without first preparing an EIS because the leases would permit surface occupancy and thus represented a full and irretrievable commitment of resources which, under Connor v. Burford (Connor), 848 F.2d 1441 (9th Cir. 1988), cert. denied, 489 U.S. 1012 (1989), triggered the requirement to prepare an EIS.

By decision dated May 25, 2000, the Acting Wyoming Deputy State Director, BLM, found that the proposed leasing conformed to the overall planning direction for the Field Offices and to the applicable RMPs, as amended or maintained, each of which provided for oil and gas exploration and development. He determined that the authorized oil and gas exploration and development included the production of CBM, as well as oil and natural gas produced from other types of reservoirs such as limestone and sandstone, and that “methane” and “natural gas” were used interchangeably regardless of the source. He disagreed with the Councils' assertion that CBM production differed significantly from other methane or natural gas production or had unique production problems because of produced water, stating that water production associated with oil and gas production was commonplace in the oil and gas industry and methods to deal with it had been well established decades before completion of the RMPs. (Decision at 1.) He rejected the Councils' allegation that BLM had not fully evaluated the unique, potentially serious environmental impacts of CBM extraction, concluding that BLM had taken the requisite hard look at the environmental effects of leasing the parcels through its NEPA analyses and was fully informed of the environmental consequences of its action. (Decision at 2.)

The Acting Deputy State Director also relied on the Park County decision which, he stated, “held that an [EIS] need not be prepared before issuance of oil and gas leases, particularly where the leases were issued for unexceptional forest land with no unusual resource values,” pointing out that land proposed for leasing here was unexceptional prairie land with no unusual resource values. (Decision at 2.) He distinguished Connor, the Ninth Circuit Court of Appeals decision cited by the Councils, on its facts because it involved a large and nearly pristine area containing endangered species. He added that, even if there were a conflict between the Tenth Circuit decision in Park County and the Ninth Circuit decision in Connor, BLM in Wyoming followed the law of the Tenth Circuit, the circuit in which it was located, not the law of other circuits. Id. The Councils filed a timely appeal of the Acting Deputy State Director’s decision.

Analysis Relating to Parcels WY-0004-045 and WY-0004-046

[1] Our resolution of the appeal as it relates to Parcels WY-0004-045 and WY-0004-046 is controlled by our decision in Wyoming Outdoor Council (WOC I), 156 IBLA 347, 357 (2002), appeal filed sub nom Pennaco Energy, Inc. v. U.S. Department of the Interior, Case No. 02CV 116D (D.Wyo. June 20, 2002), and our October 15, 2002, decision denying BLM’s motion for reconsideration of that decision. Wyoming Outdoor Council (On Reconsideration) (WOC II), 157 IBLA 259 (2002). In WOC I, the Board addressed a challenge to the inclusion of certain parcels of land administered by the Buffalo Field Office in a competitive oil and gas lease sale on the basis of DNAs identical to those involved in this case.

We found that the record clearly demonstrated that the unique problems created by the magnitude of water production from CBM extraction in the Powder River Basin and the critical air quality issues presented by CBM development and transportation had not been adequately addressed in the Buffalo RMP/EIS, noting that BLM itself had acknowledged the inadequacy of the RMP/EIS as far as the analysis of CBM issues was concerned. WOC I, 156 IBLA at 358. We held that failure of the Buffalo RMP/EIS to take the requisite hard look at the impacts associated with CBM extraction and development, which clearly were relevant matters of environmental concern in that case, precluded BLM from relying on that document to satisfy its NEPA obligations for the proposed leasing decisions at issue there. Id.

We further concluded that BLM could not rely on the October 1999 Wyodak Final EIS, which incorporated the Draft EIS with changes and new information and analysis responsive to public comments, to justify its decision to issue the leases without further NEPA analysis. Id. We pointed out that the Wyodak EIS was a project-level EIS designed to analyze the impacts of developing CBM resources on Federal land subject to previously issued leases authorizing surface occupancy, and that the Department therefore lacked the authority to deny all Federal drilling activity

based on environmental concerns unrelated to threatened or endangered species. Id. Given that the leasing decisions had already been made and the leases issued, we noted that the Wyodak EIS did not consider reasonable alternatives available in a leasing decision, including whether the parcels should be leased, appropriate lease stipulations, and no surface occupancy (NSO) stipulations and non-NSO areas. We also noted that, despite its detailed analysis of the unique impacts of CBM development, the failure of the Wyodak EIS to consider reasonable alternatives relevant to a pre-leasing environmental analysis prevented it from serving as the requisite pre-leasing NEPA document for the affected parcels. Id. at 358-59.

Since the Buffalo RMP/EIS and the Wyodak EIS, whether viewed separately or taken together, did not constitute the requisite hard look at the environmental consequences of the proposed action, we concluded that BLM was required to conduct further NEPA analysis before deciding whether to approve the sale of the parcels in question. Id. at 359. Since the DNAs depended totally on those documents and failed to even identify, much less independently address, any of the relevant areas of environmental concern or reasonable alternatives to the proposed action, we found that they did not satisfy BLM's NEPA obligations. Id. We therefore reversed BLM's dismissal of the protest in that case as to the parcels in issue. Id.

We further explained in WOC II:

In WOC, we concluded that, since a pre-leasing EIS, *i.e.*, the Buffalo RMP/EIS, had been prepared, we did not need to decide whether Connor or Park County controlled, pointing out, however, that, “even under Park County, the pre-leasing NEPA documentation, whether in the form of an EA [environmental assessment] or an EIS, must take a hard look at the environmental consequences of the proposed action. See Park County, 817 F. 2d at 622.” WOC, 156 IBLA at 357 n.5.

The issue in this case was not whether BLM was required to evaluate the impacts of full field development in an EIS before issuing the challenged leases; rather, the question was whether the existing NEPA documents were sufficient to provide the requisite pre-leasing NEPA analysis for the sale of the affected parcels in light of the probable use of the parcels for CBM development. We concluded that significant omissions in both the Buffalo RMP/EIS and the Wyodak EIS precluded BLM from relying solely on those documents to satisfy its NEPA obligations; that the “Interim Documentation of Land Use Conformance and NEPA Adequacy” worksheets (DNAs), prepared for the sales, failed to mention or independently address the relevant areas of environmental concern or reasonable alternatives, and thus did not

satisfy BLM's NEPA obligations; and, therefore, that BLM was required to conduct further NEPA analysis before deciding whether to approve the sale of the parcels at issue. 5/ We did not hold that BLM was required to prepare an EIS addressing the impacts of full field development before deciding whether to lease the parcels. We therefore did not need to decide whether Park County or Conner applied. 6/

5/ It is clear from our decision that, to comply with NEPA, BLM was required to augment the existing NEPA documents by addressing the impacts of CBM extraction in the context of the alternatives available at the leasing stage, for example, whether, given those impacts, some lands should be closed to leasing or stipulations precluding CBM extraction should be attached to all or some leases. Nowhere in our decision did we condemn the appropriate utilization of staged environmental analysis and tiering.

6/ We note that, unlike the pre-leasing DNAs prepared here, the pre-leasing EA approved in Park County exceeded 100 pages, explored leasing alternatives (including issuance of leases without stipulations, issuance of leases with stipulations, and no leasing), and examined the potential effects of each of the alternatives on energy use and conservation, on national forest administration, and on the environment. Park County, 817 F.2d at 612. Thus, even a ruling that Park County does apply would not resuscitate the inadequate pre-leasing environmental analysis in this case.

WOC II, 157 IBLA at 262, n.6.

For the reasons set forth in WOC I and WOC II, we reverse the Acting Director's decision dismissing the Councils' protest as to those parcels and remand the matter to BLM for further action.

Analysis Relating to Parcels WY-0004-072, WY-0004-074,
WY-0004-077, WY-0004-080, and WY-0004-099

In the DNA's prepared for parcels WY-0004-072, WY-0004-074, WY-0004-077, WY-0004-080, and WY-0004-099, the Rawlins Field Office relied solely on the 1990 Great Divide RMP/EIS as the requisite NEPA documentation. That RMP/EIS, however, like the Buffalo RMP/EIS, analyzed only the impacts of conventional oil and gas development and neither alluded to nor evaluated CBM-related effects. Therefore, like the Buffalo RMP/EIS discussed above, the Great Divide RMP/EIS does not satisfy BLM's obligation under NEPA to take a hard look at the impacts associated with CBM extraction and development.

[2] Dudley attempts to avoid this result by arguing in its Response in Opposition to Petition for Stay Pending Appeal and Statement of Reasons (Dudley's Response), 5/ which relates solely to parcels WY-0004-072, WY-0004-074, and WY-0004-077 and the Great Divide RMP/EIS, that the April 2001 EA prepared for its nearby Seminole Road CBM Pilot Project (Seminole Road EA) (Dudley's Response, Ex. 1) exhaustively analyzed the environmental impacts of CBM development in the portion of the Hanna Basin containing those disputed parcels, 6/ leading to the July 12, 2001, Decision Record and Finding of No Significant Impact (DR/FONSI) approving the project. (Dudley's Response, Ex. 2.) While acknowledging that the Seminole Road EA and the DR/FONSI were not specifically prepared for the lease sale under appeal, Dudley nevertheless maintains that they provide thorough, detailed, site-specific information and analysis on the environmental impacts of CBM development in the Hanna Basin, impacts which, Dudley submits, are readily distinguishable from those associated with CBM development in the Powder River Basin and which, in fact, are not significantly different from those of conventional oil and gas development. The documents provided by Dudley, however, do not cure the deficiencies in BLM's analysis.

The regulations implementing NEPA direct an agency to undertake its environmental review "early enough so that it can serve practically as an important contribution to the decisionmaking process and will not be used to rationalize or justify decisions already made." 40 CFR 1502.5. The April 2001 Seminole Road EA and July 12, 2001, DR/FONSI were not prepared until after the parcels were offered at the April 2000 lease sale and therefore could not have contributed to BLM's

6/ To the extent Dudley's Response can be construed to be a request for reconsideration of our order partially granting the Councils' stay petition, that request is denied since our resolution of the merits of the appeal has rendered it moot.

7/ Dudley suggests that BLM may also have relied on the CBM analysis contained in the 1993 Final EIS for the Metfuel Hanna Basin CBM project (Metfuel EIS), which assessed the environmental consequences of a proposed CBM gas production operation, as evidence that, 7 years before the disputed lease sale, BLM had extensive knowledge as to the potential effects of CBM extraction in the Hanna Basin and, thus, undoubtedly considered that information in determining whether or not to offer parcels WY-0004-072, WY-0004-074, and WY-0004-077 for sale. However, BLM has not cited this document in any of its decisions or in its pleadings on appeal. In any event, the Metfuel EIS, which (like the Wyodak Draft EIS) actually undercuts the claim that CBM related impacts do not differ significantly from those of conventional methane gas production, suffers from the same flaws that precluded the Wyodak Draft EIS from serving as the requisite NEPA documentation for the lease sale. See WOC, 156 IBLA at 358-59.

decisionmaking process. Nor has BLM, as opposed to Dudley, claimed that they support the leasing decision.

In any event, rather than establish that the effects of CBM development are substantially the same as those of conventional gas production analyzed in the Great Divide RMP/EIS, the Seminole Road EA and DR/FONSI acknowledge some of the unique effects of CBM extraction, including discharge water with moderately high total-dissolved-solids concentrations and a relatively high sodium-adsorption ratio, surface water and ground water quality changes, and drawdown of ground water levels (see, e.g., Dudley's Response, Ex. 1, Seminole Road EA, Appendix B at 17, 23-26) and rely principally on mitigation and monitoring to reduce those impacts to insignificance. See Dudley's Response, Ex. 1, Seminole Road EA, Appendix B at 27-28; Dudley's Response, Ex. 2, DR/FONSI at 2; see also Dudley's Response, Ex. 2, DR/FONSI, Appendix B at 19 (relying on the limited nature of the Seminole Road Project as support for the conclusion that the proposed CBM development will not adversely affect the Seminole Reservoir).

Dudley acknowledges that the Seminole Road DR/FONSI's conclusion that the Seminole Road CBM project would not have a significant impact was based in part on the prescribed mitigation measures imposed after lease issuance, but argues that these measures can also be applied as appropriate to development on the subject parcels to eliminate any potential significant impacts. However, NEPA mandates that an agency take a hard look at the relevant environmental consequences of a proposed action before it makes a decision approving or denying that action. Thus, BLM was required to consider the impacts of CBM development before it decided to offer the parcels for sale because that was the point at which it still had the opportunity to add appropriate stipulations and conditions to the offered leases related directly to the impacts of CBM development and production or to eliminate parcels from the sale.

Because the Great Divide RMP/EIS does not constitute the requisite hard look at the environmental consequences of offering the parcels for leasing, BLM was required to perform further NEPA analysis before deciding whether to approve the sale of the parcels at issue. The DNAs, which depended totally on the Great Divide RMP/EIS, failed to identify any of the relevant areas of environmental concern or reasonable alternatives to the proposed action and thus do not satisfy BLM's NEPA obligations in this case. See WOC, 156 IBLA at 359.

Accordingly, we reverse the Acting Director's decision dismissing the Councils' protest as to parcels WY-0004-072, WY-0004-074, WY-0004-077, WY-0004-080, and WY-0004-099, and remand the matter to BLM for further appropriate action as to those parcels.

Analysis Relating to Parcel WY-0004-116

[3] In the DNA for parcel WY-0004-116, the Rock Springs Field Office relied solely on the 1997 Green River RMP/EIS to satisfy its NEPA obligations. In contrast to both the Buffalo RMP/EIS and the Great Divide RMP/EIS, the Green River RMP/EIS considered CBM issues before designating lands, including those encompassed by parcel WY-0004-116, as open to oil and gas development. Although the Councils contend that the RMP/EIS' analysis of CBM impacts, which acknowledges that CBM dewatering can adversely affect groundwater quantity and quality, is insufficient to qualify as the requisite hard look at those effects, they have not convinced us that the RMP/EIS's evaluation of those impacts is inadequate to support the inclusion of parcel WY-0004-116 in the April 2000 lease sale, especially since the impacts associated with CBM development will be analyzed in greater detail in site-specific environmental documents prepared for any proposed development on the lease issued for that parcel. Accordingly, we affirm the Acting Deputy State Director's dismissal of the Councils' protest as to parcel WY-0004-116.

To the extent the parties have raised other arguments not specifically addressed, they have been considered and rejected.

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, Dudley's motion to dismiss is denied; the decision appealed from is affirmed as to parcel WY-0004-116 and reversed as to parcels WY-0004-045, WY-0004-046, WY-0004-072, WY-0004-074, WY-0004-077, WY-0004-080, and WY-0004-099; and the matter is remanded to BLM for additional action consistent with this opinion.

Bruce R. Harris
Deputy Chief Administrative Judge

I concur:

David L. Hughes
Administrative Judge